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Superseded by Answorth re-review

TO: D - Mr

THROUGH: M - Joan Clark

FROM: L - Herbert J. Hansell

SUBJECT: Legal Authority and Funding for Guyana Operations

USG operations in response to the disaster in Guyana have given rise to a number of questions concerning the legal authority for this Government to incur the costs involved, and the source of the funds that will be used to pay those costs. Our activities have served a variety of purposes which could be characterized in several different ways, e.g.:

-- investigation of major crimes against US citizens and officials;

-- operations of the Armed Forces under the President's Constitutional authority as Commander-in-Chief and Chief Executive;

-- repatriation of US citizens and conservation of estates of deceased US citizens, responsibilities of the Department of State;

-- disaster relief assistance to the Government of Guyana.

At the same time, this event is unprecedented, and there is no clearly appropriate authority and source of funds for all of our activities.

No decision has been made as to whether an effort should be made to allocate activities according to the potentially available legal authorities (and funding therefor). An alternative would be to seek to consolidate the costs as those of a single responsible agency, and to seek ex post facto appropriation if necessary.

Joan Clark will chair a meeting of concerned bureaus (ARA, CA, A, L) today, at which time we should arrive at a recommended Department of State position. We then plan to ask OMB to take the lead in interagency deliberations to reach an Administration decision.

In the interim, we believe that we should respond to inquiries in a manner which avoids prejudicing the ultimate disposition of this question. Suggested guidance is attached.

Attachment:

Suggested guidance.

concurrence: ARA - Mr. Bushnell
OMB - Mr. Sanders

L:JMMichel:edh
11/23/70: ext. 25035

SUGGESTED GUIDANCE

Q: How is the United States Government paying for the costs of its recent operations to repatriate Americans and the remains of deceased Americans from Guyana?

A: This is an unprecedented event in which we have acted to carry out a number of different purposes, involving a number of Federal agencies. Intensive interagency deliberations are under way to sort out the issues, and we expect to have answers within the next few days.

Q: What is the legal authority for these activities?

A: The operations undertaken by the United States Government in response to this tragedy were conducted pursuant to Presidential authority and the authorities available to the Departments of State, Defense, Justice and Health, Education and Welfare.

Q: Who authorized the expenditure of U.S. Government funds to deal with the calamity in Guyana and, in particular, to pay for transporting the remains back to the United States?

A: The Administration's decision was made at the highest Departmental level with broad interagency coordination.

Q: Does this mean the heads of departments were involved?

A: Yes. Cabinet-level officials were involved.